IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 11694 of 1999

Between:
APSRTC., Rep.by its Managing Director, Mushirabad, Hyderabad.

..... PETITIONER

AND

1. State Transport Appellate Tribunal, A.P., Hyderabad, Rep.by its Presiding Officer.
2. The Regional Transport Authority, Nellore, Rep.by its Secretary.
3. Smt.Varigonda Rajeswari, Bus Operator, W/o.Kumara Raja, Ram Nagar, Dargamitta, Nellore.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate wit in the nature of writ of Certiorari and call for the records relating to and in connection with the orders dated 31-3-1999 made in A.P.No.47 of 1998 of the State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order in Rc.No.7902/A2/97, dated 13-12-1997 of the Regional Transport Authority, Nellore directing issue of permit as town service from Atmakur Bus Stand to Cherloyadavalli in favour of third respondent and quash the same as being illegal, contrary to law and without jurisdiction and to pass such other order or orders deems fit and proper in the circumstances of the case.

For the Petitioner:MR.A.V.SIVAIAH, Standing Counsel for APSRTC.

For the Respondents 1 and 2: Government Pleader for Transport.

For Respondent No.3: None appeared.

The Court made the following Order :

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Third respondent made an application to the second respondent for grant of stage carriage permit to ply as town service from Atmakur bus stand to Leguntapadu (via) Stone Housepet, Pappula Street, Settigunta Road, Venkateswarapuram, Padugupadu Cross Roads and Inamadugu. Second respondent- Regional Transport Authority rejected the application on the ground that the proposed length of the route is 9.6 kms., out of which 8.6 kms., overlaps the notified route vide G.O.Ms.No.92/1987, dated 13-02-1987. Aggrieved by the same, third respondent preferred an appeal in A.P.No.47 of 1998 before the first respondent-State Transport Appellate Tribunal, which allowed the appeal holding that as per the MVI report, the overlapping is within the permissible limit and directed the second respondent to issue stage carriage permit to the third respondent within a period of four months, on his producing proper and valid documents.

The case of the petitioner is that the route in question is more than 9.6 kms and it overlaps about 8.6 kms and the conditions appended to the said scheme clearly prohibits grant of permits in favour of private operators overlapping more than 8.0 kms and as such, the rejection of the application by the second respondent is quite legal and valid. It is the further case of the petitioner that the grant of stage carriage permit in favour of third respondent is hit by the provisions of Section 104 of the

Motor Vehicles Act, 1988 and as such the order passed by the first respondent is illegal and without jurisdiction. Hence, the petitioner has come up with the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Transport. None appeared for the third respondent in spite of service of notice.

Learned Government Pleader submits that the third respondent has not produced the documents of the vehicle for grant of permit as directed by the appellate Tribunal.

This Court in **APSRTC, Musheerabad, Hyderabad v. State Transport Appellate Tribunal, Hyderabad**[1] categorically held that unless the route is formulated as contemplated under Section 68(3)(ca) of the Motor Vehicles Act, 1988, no permit can be granted by the Regional Transport Authority. The judgment was affirmed by a Division Bench of this Court in **N.Swarnalatha v. Managing Director, APSRTC, Hyderabad**[2]**.** In view of the above judgments, as the order passed by the first respondent suffers from legal infirmities, the same cannot be sustained.

Accordingly, the writ petition is allowed and the impugned order is set aside. No costs.

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Monday, the Fourteenth Day of June Two Thousand and Four.

ASSISTANT REGISTRAR

// TRUE COPY//

SECTION OFFICER

To

1. The Presiding Officer, State Transport Appellate Tribunal, A.P., Hyderabad,
2. The Secretary, Regional Transport Authority, Nellore.
3. Two C.Cs. to the G.P. for Transport, High Court Buildings, Hyderabad (OUT)
4. Two C.D. Copies.

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[1] 1999(2) ALD 60

[2] 2001 (4) ALD 257 (DB)